

**ORIGINAL**



**TRIUMPH CAPITAL**

EX PARTE OR LATE FILED

August 11, 1997

DOCKET FILE COPY ORIGINAL

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

**RECEIVED**

AUG 11 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Notice of Ex Parte Communication;  
Broadband PCS C and F Block Installment  
Payment Restructuring; WT Docket No. 97-82

Dear Mr. Caton:

On Friday, August 8, I caused to be delivered the attached letter to Chairman Reed Hundt of the Federal Communications Commission. This letter concerns issues in the above-referenced proceeding.

In accordance with Section 1.1206 of the Commission's rules, an original and two copies of this filing are being submitted to you today. Please direct any questions concerning this matter to me at 617-557-6000.

Sincerely,

Frederick W. McCarthy  
Chairman

FWM:slg

cc w/o attach: Chairman Reed E. Hundt

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TRIUMPH CAPITAL

DUCKET FILE COPY ORIGINAL

August 7, 1997

The Honorable Reed E. Hundt  
Chairman  
Federal Communications Commission  
1919 M. Street, N.W., 8th Floor  
Washington, D.C. 20554

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Dear Chairman Hundt:

It is my understanding that the Federal Communications Commission is considering an "amnesty and expedited reauction" as its preferred solution to the C block financing issue. I am Chairman of Triumph Capital Group, which has a substantial interest in the C block via its investment in NextWave Telecom. Triumph Capital invested approximately \$31 million in the C block from investment funds which we manage; over 90% of these funds are for the benefit of state, country and municipal employees and pensioners, including the California Public Employees Retirement System (CalPERS).

Should the Commission pursue the amnesty and expedited reauction approach, I wish to emphasize two points:

1. The reauction must take place as swiftly as possible, within the next four to six months. Investors in the C block have waited first while the auction itself was delayed via a series of court maneuvers and then during a protracted review before the licenses were actually granted; finally, we have experienced an unprecedented implosion of the spectrum and capital markets for new entrants. Rapid reauction is the only means to a reasonably speedy (albeit delayed) introduction of competitive service for American consumers, while also enabling private investors to earn some ultimate return on their investment.
2. The Commission must fully refund downpayments or, at a minimum, fully credit the downpayments in a subsequent C block reauction (and as a prepayment credit against F block debt). Investors in the C block committed to the national policy of competition and promotion of small and entrepreneurial business. Punitive measures are absolutely counter-productive to the Commission's goals of encouraging investment in future auctions and in competitive telecommunications ventures in general. Amnesty should be just that!

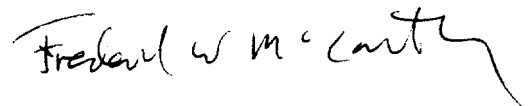
The Honorable Reed E. Hunt  
Page 2  
August 7, 1997

Investors in the C block have already suffered a great deal. First, we have lost the time value of our money. Had we merely invested in the S&P index, our investment would have increased more than 50 percent to date. We stand to lose further, i.e. the time value of these funds as they sit in the U.S. Treasury accounts awaiting reauction. Moreover, a substantial part of the investment funds committed by Triumph and its pension investors are put in total risk because they were dedicated to network buildout; NextWave has spent over \$75 million in building out eleven markets across the country to provide service to consumers as soon as possible. All of this investment will be completely at risk in a reauction where licenses (including those for the eleven partially built markets) must be returned first.

Finally, the Commission's disinclination to continue to serve as both a regulatory agency and as a banker appears to be the major reason for a reauction. This administrative step of an expedited reauction is being considered because of the Commission's experiencing the tension that naturally exists between its roles as a regulatory agency and as a banker. As you know the Commission's rules permit the Commission to restructure C block debt (a course of action which would be my personal first choice, given sufficient interest deferral or waiver). Should the Commission not enter into the comprehensive restructure warranted here due to its reluctance to continue as a banker, investors such as Triumph Capital and its public pension fund beneficiaries should not be penalized.

Thank you very much for the seriousness with which you and the Commission are addressing this issue and for taking the time to consider my point of view.

Sincerely,

A handwritten signature in dark ink, appearing to read "Frederick W. McCarthy", with a stylized flourish at the end.

Frederick W. McCarthy  
Chairman

FWM:slg

cc: Commissioner James H. Quello  
Commissioner Rachelle B. Chong  
Commissioner Susan Ness  
Mr. Daniel Phythyon  
Mr. John Garcia  
Task Force Members